

14 OCT 1966

MEMORANDUM FOR: Inspector General

SUBJECT : Agency Regulations on Pay of Night Differential

REFERENCES : (a) Memo to Director of Finance dated 15 September 1966 from Inspector General, Subject: Same as Above

(b) Memo to Inspector General dated 30 September 1966 from Office of General Counsel, Subject: Same as Above

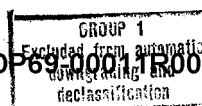
1. This memorandum is in response to request in reference (a) that this Office comment on payment of night differential to certain NPIC employees under conditions described in that reference.

25X1 2. [] provides that night pay differential is payable in addition to overtime when the overtime hours fall between 6 p.m. and 6 a.m. and are "within another regularly scheduled tour of duty." According to pay records, NPIC has two scheduled shifts working from 0800 to 1630 and from 1600 to 0030 hours. Occasionally, the second (night) shift works from 2000 to 0800 hours either during the week or on weekends, according to reference (a).

25X1 3. The conclusion stated by Office of General Counsel in reference (b) precludes payment of night differential in connection with overtime hours when the hours are rearranged to meet emergencies. Clearly, the rearranged schedules are not "scheduled in advance."

25X1 In [] the Comptroller General in discussing "unscheduled" duty stated that "unscheduled" is the antithesis of "scheduled" and that "scheduled" implies work which is scheduled at least one week in advance. Also, in [] it was held that occasional, unscheduled overtime duty after 6 p.m. which cannot be anticipated and scheduled in advance does not constitute "regularly scheduled work" and night differential cannot be paid.

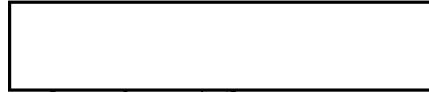
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4. This Office concurs with the opinion expressed by Office of General Counsel that the rearranged hours of the NPIC employees do not qualify for night differential. Based on an informal discussion with a member of the Office of General Counsel, however, he expressed concurrence that night differential could be paid NPIC employees for the first four hours of the rearranged schedule if this occurs during the basic work week Monday through Friday since the hours 2000 to 2400 constitute a portion of the "regularly scheduled" night shift hours which are from 1600 to 0030 hours. Nevertheless night work on Saturdays or Sundays would definitely be "unscheduled" overtime and would not qualify for night differential under the law or Agency regulations.



/R. H. FUCHS
Director of Finance

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